

REMARKS/ARGUMENTS

The claims are 25-28, 31, 32, 36-40, 42, 44, 47 and 48.

Claims 47 and 48 have been amended to define the invention more clearly. Support for the claims may be found, *inter alia*, in the disclosure at page 7, first and second full paragraphs and original claim 15 (see current claim 37). Reconsideration is expressly requested.

The Examiner rejected claims 25-28, 31-32, 36-40, 42, 44, and 47-48 under 35 U.S.C. 112, first paragraph, because the expression "that the individual areas dynamically indicate different functional states of a connected device at the same time" was said to be insufficiently described in the specification. It is respectfully requested that the Examiner reconsider the rejection under 35 U.S.C. § 112 in view of the following remarks.

As set forth in § 112, the detailed description of the invention need be only in such particularity as to enable any person skilled in the art to make or use the invention without extensive experimentation. It is respectfully submitted that the recitation in the claims that the individual areas dynamically indicate different functional states of a connected device at the same time, together with the disclosure at page 7, first and second paragraphs in the specification, provide sufficient guidance to enable one to construct a device and practice a method for representing a surface in accordance with Applicant's invention.

The specification states at page 7, that "such graphics displaying the given switching state when the switching/controlling elements are actuated" and "if a moving television image is blended into the surface or the display screen instead of the graphics". (These words correspond to the original disclosure as set forth on page 5, first and second full paragraphs, of WO00/28392, "die bei Betätigung der Schalt-/Steuerelemente den entsprechenden Schaltzustand anzeigt" and "wenn antatt der Graphik eine bewegtes Fernsehbild...eingebendet wird") A person skilled in the art understands that "bewegt" or "moving" means dynamically and not static. Accordingly, upon reading the specification, one skilled in the art would know that the individual areas dynamically indicate different functional states of a connected device at the same time. Accordingly, it is respectfully submitted that the claims, as amended, fully comply with the requirements of 35 U.S.C. § 112 and that the rejection should be withdrawn.

Claims 25-26, 28, 31-32, 36-40, 42, and 47-48 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Jaeger et al. U.S. Patent No. 5,841,428 in view of Jaeger U.S. Patent No. 5,977,955. The remaining claims 27 and 44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Jaeger et al. '428, Jaeger '955 and further in view of Levin et al. U.S. Patent No. 6,154,201. Essentially, the Examiner's position was (1) that Jaeger et al. '428 discloses the method and device recited in the claim except for creating visible areas on the flat display using a

commercially available software so that the individual areas dynamically indicate different functional states of a connected device at the same time, (2) that *Jaeger '955* discloses a control device that may use a flat panel display that generates changeable images in response to signals received from a display controller through a multiconductor bus and (3) that it would have been obvious for one of ordinary skill in the art at the time the invention was made to indicate the different functional conditions on the areas in the device of *Jaeger et al. '428*, as taught by *Jaeger '955*, for providing visual feedback for the operator, i.e., the control means enable display of different information pertaining to the component at different times at the same location adjacent to the component. *Levin et al* is cited simply as showing an LED or plasma display.

Moreover, in the Examiner's view, the *Jagger '955* patent discloses (1) a control device including a display screen divided into a plurality of areas, (2) that the screen may be any known type of flat panel display that generates changeable images in response to signals received from the display controller 38 to multiconductor bus 39, (3) that the controller 38 may be of any known design and in many cases is an internal component or computer which is available commercially along with instructions for programming desired graphics, (4) that the graphics which are appropriate may take diverse different forms (column 15, lines 20-34), and (5) that changing of the graphics 33, as depicted in FIG.

3, may variously be initiated by programming or in response to operation of the control device 12, 13, 14 or 16 with which the graphics are associated (See FIG. 3 and column 7, lines 29-42).

This rejection is respectfully traversed.

As set forth in the claims, Applicant's invention provides a method for representing a surface and a device for use with a commercially available nonapparatus-specific flat display.

In accordance with the method as set forth in claim 47, an at least partially transparent attachment is coupled in front of a commercially available nonapparatus-specific flat display and visible areas are created on the flat display using a commercially available nonapparatus-specific software so that the individual areas dynamically indicate different functional states of a connected device including a TV-screen at the same time.

As set forth in claim 48, Applicant's invention provides a device in which an at least partially transparent attachment is coupled in front of the commercially available flat display and at least one electrical switching/control element is integrated with the attachment. The flat display is divided into a plurality of areas via software of which at least one area is arranged radially relative to the at least one electrical switching/control element and visible areas on the flat display are created using a

commercially available software so that the individual areas dynamically indicate different functional states of a connected device including a TV-screen at the same time.

The primary *Jaeger et al.* '428 reference fails to disclose or suggest using a commercially available nonapparatus-specific flat display or a commercially available nonapparatus-specific software. Although *Jaeger et al.* '428 presents a flat panel base in front of a display device, this flat panel device contains graphics around a knob which are not changeable as it does in Applicant's invention. Moreover, the display in *Jaeger et al.* '428 is a specific display for a specific apparatus. In contrast, the panel used in Applicant's invention, as set forth in claims 47 and 48, is more flexible and simpler in production which is an enormous advantage for its use. Further, the described software in *Jaeger et al.* '428 is not a commercially available software but a specific software as shown in different flow charts in the FIGS. 18A, 25A, 30A, 30B and 42A.

A further important feature of Applicant's invention as set forth in claims 47 and 48 is that a normal TV picture can be integrated into the screen image which necessarily is dynamic. This feature is nowhere disclosed or suggested by *Jaeger et al.* '428.

The secondary Jaeger '955 patent likewise fails to disclose these features as has been recognized, for example, by the European and German Patent Office as set forth in the main claims allowed by the German and European Patent Office in the corresponding German and European patent applications (copies attached). Like Jaeger et al. '428, Jaeger '955 does not use a nonapparatus-specific software to indicate different functional states of a connected device including a TV-screen. The same is true for Levin et al. which is cited simply showing an LED or plasma display. Hence, neither of these patents fail to remedy the deficiencies of the Jagger et al. '428 patent.

Although Jaeger '955, like many patents, discloses the division of a display screen into a plurality of areas, this disclosure merely represents the state of the art and does not render obvious Applicant's method and apparatus as set forth in claims 47 and 48.

Similarly, although Jaeger '955 also discloses that the screen may be any known type of flat panel display, which may be a classical cathode ray screen, or LCD screen, or plasma screen, these screens as contemplated by Jaeger '955 are made for a specific apparatus and are not available in any shop dealing with electronic apparatus.

Applicant also agrees that in *Jaeger '955* a controller 38 is provided as a component of a commercially available computer; however, this feature fails to render obvious Applicant's method and apparatus as set forth in claims 47 and 48. The programming of any appropriate graphics and forms or pictures in both *Jaeger '955* and *Jaeger et al. '428* are static images and have to be newly programmed when the image of the graphic is to be changed as disclosed in these patents.

In contrast, in Applicant's invention as set forth in claims 47 and 48, the program is made in such a way that the physical changes are automatically shown on the display. It is respectfully submitted that the Examiner is engaging in impermissible hindsight in selecting different aspects from various documents to arrive at Applicant's invention.

As set forth in In re Fine, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988):

"Obviousness is tested by 'what the combined teachings of the references would have suggested to those of ordinary skill in the art'. In re Keller, 642 F.2d 418, 428, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981). But it 'cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination.' ACS Hosp. Sys., 732 F.2d at 1577, 221 U.S.P.Q. at

933. And 'teachings of references can be combined only if there is some suggestion or incentive to do so.' Id. Here, the prior art contains none."

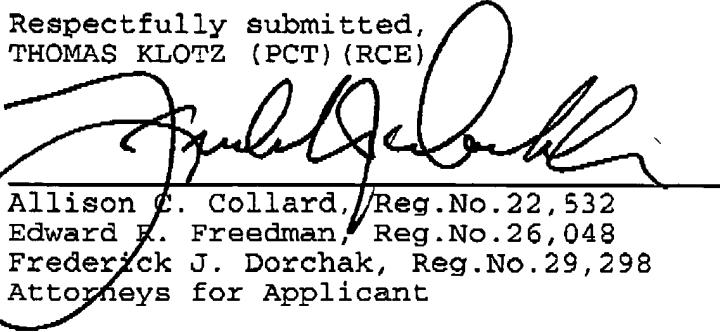
Id. at 1599 (Courts emphasis).

Because there is no reason in any of Jaeger et al. '428, Jaeger '955 or Levin et al. to make the combination proposed by the Examiner, Applicant respectfully submits that the Examiner has failed to carry his burden to establish that the claimed invention would have been prima facie obvious in view of these patents.

Even if the references could be combined in the manner suggested by the Examiner, the hypothetical combination would not yield Applicant's invention. None of the cited references teach the integration of a normal TV picture into the screen image which necessarily is dynamic nor the use of non-device specific software and a non-device specific flat panel display. Accordingly, it is clear that the pending claims recite unobvious and patentable subject matter.

In summary, claims 47 and 48 have been amended. In view of the foregoing, it is respectfully requested that the claims be allowed and that this case be passed to issue.

Respectfully submitted,
THOMAS KLOTZ (PCT) (RCE)


Allison C. Collard, Reg. No. 22,532
Edward R. Freedman, Reg. No. 26,048
Frederick J. Dorchak, Reg. No. 29,298
Attorneys for Applicant

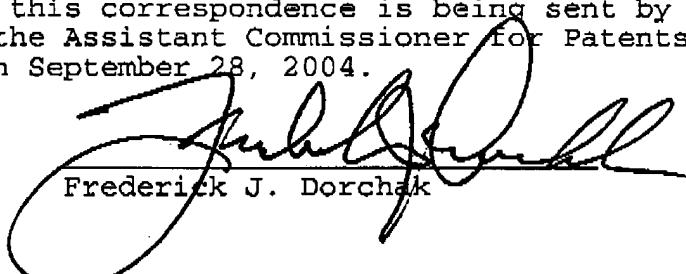
COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, New York 11576
(516) 365-9802

FJD:jc
Enclosure: Copy of main claims allowed by the German and European Patent Office in the corresponding German and European patent applications
Copy of Petition for 3-month Extension of Time

CERTIFICATE OF FACSIMILE TRANSMISSION

Fax No. 703-872-9314

I hereby certify that this correspondence is being sent by facsimile-transmission to the Assistant Commissioner for Patents, Washington, D.C. 20231, on September 28, 2004.


Frederick J. Dorchak

EP 99 967 860.0-2206
Unser Zeichen: KD 7034 int.EP

CLAIMS

1. Method for representing a surface (1) having a completely or partially transparent superstructure (2), which has at least one electrical switching/control element (3, 4, 5) and is arranged above a flat display (6) of a commercially available display, which is divided by software into several areas (7, 8, 9), of which at least one area (7) is arranged radially relative to the electrical switching/control element (3, 4, 5), characterized in that
 - the visible areas (7, 8, 9) of the flat display (6) are created using a commercially available software, whereby
 - the individual areas (7, 8, 9) dynamically display different functional states of a connected apparatus, at the same time.
2. Arrangement of a completely or partially transparent superstructure (2), which has at least one electrical switching/control element (3, 4, 5) and is arranged above a flat display (6) of a commercially available display, which is divided by software into several areas (7, 8, 9), of which at least one area (7) is arranged radially relative to the electrical switching/control element (3, 4, 5), characterized in that

- the visible areas (7, 8, 9) of the flat display (6) are created using a commercially available software, whereby
 - the individual areas (7, 8, 9) dynamically display different functional states of a connected apparatus, at the same time.
3. Arrangement according to Claim 2, characterized in that the flat display (6) is an electronic cathode ray tube.
 4. Arrangement according to Claim 2, characterized in that the flat display (6) is an LCD display.
 5. Arrangement according to Claim 2, characterized in that the flat display (6) is an LED display.
 6. Arrangement according to Claim 2, characterized in that the flat display (6) is a plasma tube.
 7. Arrangement according to Claim 2, characterized in that the superstructure (2) represents a flat cover.
 8. Arrangement according to Claim 2, characterized in that at least one switching/control element (3, 4, 5) on/in the superstructure (2) is a microsensor, a rotation transducer,

DE 198 51 337 B4 2004.05.06

Schalt-/Steuerelemente 3, 4, 5 auf dem Aufsatz 2 montiert.

[0027] In Fig. 3 ist schematisch ein Beispiel einer kompletten Oberfläche 1 dargestellt. Die runden Knöpfe in den vier waagerechten Reihen symbolisieren die Schalt-/Steuerelemente 3, 4, 5. Radial zu den Schalt-/Steuerelementen sind Grafiken 7 ersichtlich, die mit einer handelsüblichen Software erstellt wurden, so daß jede beliebige Darstellung gewählt werden kann. In der unteren Reihe ist ein weiteres Ausführungsbeispiel der radial angeordneten Grafiken 7 ersichtlich.

[0028] Die Erfindung ermöglicht somit die Nutzung handelsüblicher Betriebssysteme, wie beispielsweise Microsoft Windows oder Apple DOS, um alle Steuerfunktionen in hochauflösender Grafik in Farbe auf einem handelsüblichen Kathodenstrahlbildschirm oder Flüssigkristallbildschirm darzustellen, wobei der Hersteller dem Vorteil ihm bekannter, ergonomisch sinnvoller Steuerelemente nutzen kann. Die Herstellung eines hier beschriebenen Aufsatzes zur Bildung einer erfindungsgemäßigen Oberfläche kann bereits durch einfache Frä- und Bohrarbeiten erfolgen, so daß die Anfertigung einer derartigen Maske auch für Einzelstücke und Kleinserien wirtschaftlich ist.

Patentansprüche

1. Anordnung eines ganz oder teilweise durchsichtigen Aufsatzes (2), der mindestens ein elektronisches Schalt-/Steuerelement (3, 4, 5) aufweist und über einer flächigen Anzeige (6) eines handelsüblichen Gerätes mit hochauflösenden Eigenschaften, das softwaremäßig in mehrere Bereiche (7, 8, 9) aufgeteilt ist, wovon mindestens ein Bereich (7) radial zum elektronischen Schalt-/Steuerelement (3, 4, 5) angeordnet ist, dadurch gekennzeichnet, dass die sichtbaren Bereiche (8, 9) der flächigen Anzeige (6) mit einer handelsüblichen Software zur Gestaltung der Displayoberfläche programmiert werden; wobei die einzelnen Bereiche (8, 9) gleichzeitig verschiedene Funktionszustände einer angeschlossenen Apparatur dynamisch anzeigen; und mindestens ein Bereich (7) ein Fernsehbild anzeigt.

2. Anordnung nach Anspruch 1, dadurch gekennzeichnet, dass die flächige Anzeige (6) eine elektro-nische Kathodenstrahlröhre ist.

3. Anordnung nach Anspruch 2, dadurch gekennzeichnet, dass die flächige Anzeige (6) eine LCD-Anzeige ist.

4. Anordnung nach Anspruch 2, dadurch gekennzeichnet, dass der flächige Anzeige (6) eine LED-Anzeige ist.

5. Anordnung nach Anspruch 2, dadurch gekennzeichnet, dass die flächige Anzeige (6) eine

Plasmaröhre ist.

6. Anordnung nach Anspruch 2, dadurch gekennzeichnet, dass der Aufsatz (2) eine flächige Abdeckung darstellt.

7. Anordnung nach Anspruch 2, dadurch gekennzeichnet, dass das mindestens eine Schalt-/Steuerelement (3, 4, 5) an/auf/in dem Aufsatz (2) ein Mikrotaster, Drehgeber, oder linearer Weggeber ist.

8. Anordnung nach Anspruch 2, dadurch gekennzeichnet, dass die Schalt-/Steuerelemente (3, 4, 5) mittels einer gedruckten Schaltung elektrisch mit weiteren elektrischen/elektronischen Bauteilen (Mikroprozessoren) verbunden sind.

9. Anordnung nach Anspruch 2, dadurch gekennzeichnet, dass die Graphik (11) Schaltzustände anzeigt.

10. Anordnung nach Anspruch 2, dadurch gekennzeichnet, dass der Aufsatz (2) aus Kunststoff oder Metall ist.

11. Anordnung nach Anspruch 2, dadurch gekennzeichnet, dass der Aufsatz (2) Durchbrüche (8, 9, 10) aufweist, die als Fenster dienen.

12. Anordnung nach Anspruch 2, dadurch gekennzeichnet, dass die Flächen zwischen den Durchbrüchen (8, 9, 10) Schalt-/Steuerelemente (3, 4, 5) aufnehmen.

Es folgen 2 Blatt Zeichnungen

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- BLACK BORDERS**
- IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- FADED TEXT OR DRAWING**
- BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- SKEWED/SLANTED IMAGES**
- COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- GRAY SCALE DOCUMENTS**
- LINES OR MARKS ON ORIGINAL DOCUMENT**
- REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.